IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE CIVIL JURISDICTION

APPEAL FROM ORDER NO.1093 OF 2004
IN
NOTICE OF MOTION NO.4838 OF 2004
IN
L.C.SUIT NO.5597 OF 2004

Shilpa Azaz Jesani and another).. Appellants

Versus

The Municipal Corporation of Greater Mumbai).. Respondent

Mr.A.Y.Sakhare with Mr.Jitendra J.Shah for the Appellants.

Mr.J.Xavier for the Respondent.

CORAM: SMT.NISHITA MHATRE, J.

DATED: 23RD DECEMBER 2004

P.C.:

. The Appeal From Order has been filed against the order of the trial Court refusing any ad-interim relief. The main prayer in the suit itself is that the Respondent-Corporation should take action against the suit structure consisting of the ground and three upper floors only after following due process of law. This is not an unreasonable prayer. In fact, the entire suit can be disposed of by directing the Respondent Corporation to take action against the suit structure after following due process of law. Mr.Sakhare, learned Counsel for the Appellants, on instructions from Ismail

Noor Mohammad Shaikh, Power of Attorney holder of the Appellants, states that the suit structure is still in existence. In view of this, Appeal From Order disposed of with a direction to the Corporation that it shall not take any action in respect of the suit structure without following due process of law. Mr.Sakhare undertakes to withdraw the Suit within a week from today.

2. In view of the fact that the Appeal From Order has been disposed of, nothing survives in Civil Application No.1551 of 2004 and the same is disposed of accordingly.